

REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested. Claims 21-31 and 58-81 are now pending, wherein claim 21 is amended, claims 1-20 and 32-57 are canceled and claims 58-81 are new. New claim 58 is supported at least in FIG. 1 and the accompanying description, and new claims 59-81 are similar to claims 21-31 and 58, and also find support in the description on page 7, lines 1-10 of the present application.

Claims 21-31 are rejected under 35 U.S.C. § 112, second paragraph for indefiniteness due to the recitation of “an actual probability” in claim 21.

Although this ground of rejection is respectfully traversed, claim 21 is amended to clarify that the actual probability is calculated “based on the code string model and the defined quantity of unique code strings” and is used to determine whether the code string model produces a desired level of security as defined by “a desired probability”. Thus, in view of these claim amendments and Applicant’s specification¹, one skilled in the art would have understood that “an actual probability” is a statistical probability that a randomly selected code string will match any of the code strings in the subset of unique code strings. Accordingly, it is respectfully submitted that the recitation of an actual probability in claim 21 is definite and Applicant respectfully requests that this rejection be withdrawn.

¹ See M.P.E.P. § 2713.02 discussing that “[d]efiniteness of claim language must be analyzed ... in light of ... [i]nter alia, t]he content of the particular application disclosure”.

Claims 21-23, 25 and 26 are rejected for obviousness under 35 U.S.C. § 103(a) in view of the combination of U.S. Patent No. 7,283,630 to Doljack (“Doljack”) and U.S. Patent No. 6,038,334 to Hamid (“Hamid”). Claims 24 and 27-29 are rejected for obviousness under 35 U.S.C. § 103(a) in view of the combination of Doljack, Hamid and U.S. Patent Application Publication No. 2002/0145146 to Miolla et al. (“Miolla”). Claims 30 and 31 are rejected for obviousness under 35 U.S.C. § 103(a) in view of the combination of Doljack, Hamid and Official Notice. These grounds of rejection are respectfully traversed.

Doljack and Hamid does not render amended claim 21 obvious because the combination does not disclose or suggest at least the following elements of:

- defining a desired probability of guessing any of the quantity of unique code strings;
- randomly generating a subset of unique code strings from the total quantity of unique code strings when the actual probability is less than the desired probability, wherein a size of the subset of unique code strings corresponds to the quantity of unique code strings;
- defining a new code string model having finite parameters when the actual probability is greater than the desired probability;

Doljack discloses a technique for verifying authenticity of goods using random numbers. When generating the random numbers the main constraint placed on the generated random numbers is that they have not been previously generated, i.e., they are unique.² Doljack does not disclose or suggest the use of a desired probability to determine whether to randomly generate a subset of unique code strings or define a new code string model as recited in amended claim 21.

² See, for example, column 7, lines 35-46.

Hamid discloses a technique for gathering biometric information that requires samples from at least two biometric information sources to reduce false acceptances of entered biometric information. The Office Action cites column 9, lines 3-9 of Hamid as disclosing defining a maximum probability of guessing and verifying that the actual probability is less than the defined maximum probability. This section discusses the method of FIG. 6 that involves identifying a user based on biometric information. Specifically, the biometric information is compared to a template of an individual to determine the probability of a false acceptance or false rejection. Depending upon whether the probability is within certain limits, the user is either identified or not. Hamid's use of biometric information to determine whether a user is identified does not involve using a desired probability to determine whether to randomly generate a subset of unique code strings or to define a new code string model as recited in amended claim 21.

Because Doljack and Hamid both do not disclose the claim elements set forth above, the combination does not render claim 21 obvious.

Miolla is cited for features recited in dependent claims 24 and 27-29, but does not remedy the above-identified deficiencies of the combination of Doljack and Hamid discussed above. Accordingly, claims 22-31 are patentably distinguishable over the current grounds of rejection at least by virtue of their dependency. Thus, it is respectfully requested that the rejections of claims 21-31 be withdrawn.

Regarding the Official Notice for the features of claims 30 and 31, Applicant respectfully traverses the Official Notice and respectfully requests that the next Office Action provide prior art evidence demonstrating that it was known to use a schema for exchanging transmitted signals as part of an authenticity validation.

New claims 58-81 recite similar elements to those discussed above with regard to claim 21 and are patentably distinguishable over the current grounds of rejection for similar reasons.

Claims 21-31 are provisionally rejected on the ground of non-statutory obviousness-type double patenting in view of claims 6-11, 13-18, 35, 37-40 and 42-48 of U.S. Patent Application No. 10/701,377, which has subsequently issued as U.S. Patent No. 7,752,137. Although Applicant respectfully traverses this rejection, a Terminal Disclaimer with respect to the '137 patent is being submitted with this Reply. Accordingly, withdrawal of the double patenting rejection is respectfully requested.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323, Docket No. 102980.58649US2.

Respectfully submitted,

August 31, 2010

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